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OFFICE OF PETITIONS

In re Application of :
Douglas D. DeMasi :
Application No. 10/773,872 : ON PETITION
Filed: June 10, 2004 :
Title of Invention: SELF :
ADHESIVE INSULATION, WITH :
EXTENDED, PREFOLDED OR :
ELASTIC FASING TABS, SELF :
ADHESIVE NET, SELF ADHESIVE :
AIR VENT, SELF ADHESIVE PAPER :
HANGING SUPPORT STRIPS :

This is a decision in response to the correspondence filed May 23, 2006, wherein Applicant states that he mailed correspondence to this office on April 19, 2006, and that he does not understand the Notice of Abandonment mailed April 12, 2006. The correspondence is treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.181". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed August 16, 2004. The Notice set a two (2) month period for reply from the mail date

of the Notice. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed a response to the Notice on October 8, 2004; however, the response was incomplete. Applicant was so notified in a Notice of Incomplete Reply mailed October 25, 2004. The Notice of Incomplete Reply mailed October 25, 2004, also stated that the period for reply remained as set forth in the Notice to File Corrected Application Papers ("Notice"), that was mailed on August 16, 2004. (That Notice had set a two (2) month period for reply, and provided for extensions of time).

No response to the Notice of Incomplete Reply, mailed October 25, 2004, was received. Accordingly the application became abandoned for failure to reply to Notice to File Corrected Application Papers ("Notice"), mailed August 16, 2004, after the two (2) month period expired, on October 17, 2004.

The instant petition

Applicant files the instant petition wherein Applicant states that he mailed correspondence to this office on April 19, 2006, and that he does not understand the Notice of Abandonment mailed April 12, 2006.

Applicant is advised that the application became abandoned because Applicant did not reply to the Notice to File Corrected Application Papers ("Notice"), that was mailed to him on August 16, 2004, within the two (2) months set in the Notice. The Notice required additional claim fees of \$1,511.00. The Notice also provided for extensions of time; however, Applicant is also advised that extensions of time require the appropriate fee commensurate with the extension period (one month; two months; three months, etc.) requested. A list of current fees is available at www.uspto.gov.

The Notice clearly set forth the period for reply and also provided for extensions of time. Applicant is advised that it is Applicant's responsibility to ensure that timely and proper replies are filed. That Applicant was unsure or unclear as to the rules of practice in this Office does not excuse Applicant of the responsibility to file a timely, complete and proper reply to Office communications as the condition of the case requires.

Because the application is now abandoned, Applicant must revive the application before the amendment may be considered by the Examiner.

Alternate Venue

Applicant is strongly urged to file a petition to revive the application. In order to revive an application, the following requirements must be met:

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Applicant is further advised to contact the Office of Independent Inventors, www.uspto.gov and at 703-306-5568, and the Patent Assistance Center, at 1-800-786-9199, or to seek the assistance of a registered practitioner, for assistance in prosecuting his patent application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.



Derek L. Woods

Attorney
Office of Petitions